

AMENDED IN SENATE APRIL 5, 2010

SENATE BILL

No. 1160

Introduced by Senator Dutton

February 18, 2010

An act to amend Section 11346.3 of, and to add Sections 9143.5 and 13305.5 to, the Government Code, relating to state fiscal analysis.

LEGISLATIVE COUNSEL'S DIGEST

SB 1160, as amended, Dutton. State fiscal analysis.

(1) Existing law requires the Legislative Analyst, operating under the authority of the Joint Legislative Budget Committee, to provide the Legislature with specified fiscal analyses of matters affecting state finances.

This bill would require the Legislative Analyst, to the extent that any fiscal estimate of the annual state budget involves one or more proposed changes in state tax law having a designated fiscal impact, to prepare the estimate, except as specified, on the basis of assumptions that estimate the probable behavioral responses of taxpayers and others to the proposed changes, and to include in the fiscal estimate a statement identifying those assumptions.

(2) Existing law requires a state agency proposing to adopt, amend, or repeal any administrative regulation to assess the effect of the proposed regulation on jobs and businesses within the state.

This bill would require the assessment to be performed using a dynamic-revenue analysis technique *under specified conditions*.

(3) Existing law requires the Department of Finance to perform various duties pertaining to the preparation and analysis of the annual state budget, and the fiscal analysis of legislative proposals before the Legislature.

This bill would require the Department of Finance, to the extent that any fiscal impact estimate involves one or more proposed changes in state tax law having a designated fiscal impact, to prepare the estimate, except as specified, on the basis of assumptions that estimate the probable behavioral responses of taxpayers and others to the proposed changes, and to include in the fiscal estimate a statement identifying those assumptions.

Vote: majority. Appropriation: no. Fiscal committee: yes.
State-mandated local program: no.

The people of the State of California do enact as follows:

1 SECTION 1. It is the intent of the Legislature to ensure that,
2 to the extent reasonable, dynamic estimating techniques are used
3 in predicting the fiscal impact of proposals to enact laws and
4 promulgate regulations.

5 SEC. 2. Section 9143.5 is added to the Government Code, to
6 read:

7 9143.5. To the extent that any fiscal estimate prepared by the
8 Legislative Analyst regarding the annual state budget involves one
9 or more proposed changes in state tax law, the Legislative Analyst
10 shall prepare the estimate, except where it is unreasonable to do
11 so, on the basis of assumptions that estimate the probable
12 behavioral responses of taxpayers, businesses, and other citizens
13 to those proposed changes, and shall include in the fiscal estimate
14 a statement identifying those assumptions. The requirement set
15 forth in this section applies only to a proposed change in state tax
16 law determined by the Legislative Analyst, pursuant to a static
17 fiscal estimate, to have a fiscal impact in excess of ten million
18 dollars (\$10,000,000) in any one fiscal year.

19 SEC. 3. Section 11346.3 of the Government Code is amended
20 to read:

21 11346.3. (a) State agencies proposing to adopt, amend, or
22 repeal any administrative regulation shall assess the potential for
23 adverse economic impact on California business enterprises and
24 individuals, avoiding the imposition of unnecessary or unreasonable
25 regulations or reporting, recordkeeping, or compliance
26 requirements. For purposes of this subdivision, assessing the
27 potential for adverse economic impact shall require agencies, when
28 proposing to adopt, amend, or repeal a regulation, to adhere to the

1 following requirements, to the extent that these requirements do
2 not conflict with other state or federal laws:

3 (1) The proposed adoption, amendment, or repeal of a regulation
4 shall be based on adequate information concerning the need for,
5 and consequences of, proposed governmental action.

6 (2) The state agency, prior to submitting a proposal to adopt,
7 amend, or repeal a regulation to the office, shall consider the
8 proposal's impact on business, with consideration of industries
9 affected including the ability of California businesses to compete
10 with businesses in other states. For purposes of evaluating the
11 impact on the ability of California businesses to compete with
12 businesses in other states, an agency shall consider, but not be
13 limited to, information supplied by interested parties.

14 It is not the intent of this section to impose additional criteria on
15 agencies, above that which exists in current law, in assessing
16 adverse economic impact on California business enterprises, but
17 only to assure that the assessment is made early in the process of
18 initiation and development of a proposed adoption, amendment,
19 or repeal of a regulation.

20 (b) (1) All state agencies proposing to adopt, amend, or repeal
21 any administrative regulations shall assess, ~~by using a dynamic~~
22 ~~revenue analysis~~, whether and to what extent it will affect the
23 following:

24 (A) The creation or elimination of jobs within the State of
25 California.

26 (B) The creation of new businesses or the elimination of existing
27 businesses within the State of California.

28 (C) The expansion of businesses currently doing business within
29 the State of California.

30 (2) *If the static estimate first shows that a regulation will have*
31 *an annual cost to the private sector of one hundred million dollars*
32 *(\$100,000,000) or more when fully operational, then a state agency*
33 *shall assess the regulation in compliance with paragraph (1) by*
34 *using a dynamic analysis.*

35 ~~(2)~~

36 (3) This subdivision does not apply to the University of
37 California, the Hastings College of the Law, or the Fair Political
38 Practices Commission.

39 ~~(3)~~

1 (4) Information required from state agencies for the purpose of
2 completing the assessment may come from existing state
3 publications.

4 (c) No administrative regulation adopted on or after January 1,
5 1993, that requires a report shall apply to businesses, unless the
6 state agency adopting the regulation makes a finding that it is
7 necessary for the health, safety, or welfare of the people of the
8 state that the regulation apply to businesses.

9 SEC. 4. Section 13305.5 is added to the Government Code, to
10 read:

11 13305.5. To the extent that any fiscal impact estimate prepared
12 by the Department of Finance involves one or more proposed
13 changes in state tax law, the department shall prepare the estimate,
14 except where it is unreasonable to do so, on the basis of
15 assumptions that estimate the probable behavioral responses of
16 taxpayers, businesses, and other citizens to those proposed changes,
17 and shall include in the fiscal impact estimate a statement
18 identifying those assumptions. The requirement set forth in this
19 section shall apply only to a proposed change in state tax law
20 determined by the Department of Finance, pursuant to a static
21 fiscal estimate, to have a fiscal impact in excess of ten million
22 dollars (\$10,000,000) in any one fiscal year.